



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2021-0050; FRL-8963-01-OCSP]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions were granted during the period April 1, 2021 to June 30, 2021 to control unforeseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the emergency exemption.

B. How Can I Get Copies of this Document and Other Related Information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2021-0050, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Public Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

II. Background

EPA has granted emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific.

Under FIFRA section 18 (7 U.S.C. 136p), EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A “specific exemption” authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.
2. “Quarantine” and “public health” exemptions are emergency exemptions issued for quarantine or public health purposes. These are rarely requested.
3. A “crisis exemption” is initiated by a State or Federal agency (and is confirmed by

EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in “a reasonable certainty of no harm” to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the “reasonable certainty of no harm standard” of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the State or Federal agency granted the exemption, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the *Federal Register* citation for the time-limited tolerance, if any.

III. Emergency Exemptions

A. U. S. States and Territories

Arkansas

Department of Agriculture

Specific exemption: EPA authorized the use of fluridone on a maximum of 5,000 acres of peanut to control herbicide-resistant Palmer amaranth (*Amaranthus palmeri*). A time-limited tolerance in connection with this action will be established in 40 CFR 180.420(b). The authorization for this use is effective May 7, 2021 to August 1, 2021.

California

Department of Pesticide Regulation

Specific exemption: EPA authorized the use of bifenthrin on a maximum of 18,000 acres of pomegranate to control leaffooted plant bug. A time-limited tolerance in connection with a

past action has been established in 40 CFR 180.442(b). The authorization for this use is effective June 21, 2021 to January 15, 2022.

Colorado

Department of Agriculture

Specific exemption: EPA authorized the use of acifluorfen on a maximum of 5,500 acres of sugar beets for postemergence control of glyphosate-resistant Palmer amaranth pigweed (*Amaranthus palmeri*). Time-limited tolerances in connection with this action will be established in 40 CFR 180.383(b). The authorization for this use is effective June 1, 2021 to July 31, 2021.

Georgia

Department of Agriculture

Public Health Exemption: EPA authorized the use of Benzene, 1-(1,1-dimethylethyl)-4-ethenyl-, polymer with ethenylbenzene and 2-methyl-1,3-butadiene, sulfonated, CAS 1637665-77-0 (referred to as BiaXam polymer), for supplemental residual control of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) on hard, nonporous, nonfood-contact surfaces in Delta Air Lines airplanes and airport facilities in Georgia. Because the request proposed use of a new chemical (an active ingredient not contained in any currently registered pesticide), in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the *Federal Register* on February 9, 2021 (86 FR 8784) (FRL-10019-60) with the public comment period closing on February 24, 2021. The authorization for this use is effective April 21, 2021 to April 21, 2022.

Hawaii

Department of Agriculture

Specific exemption: EPA authorized the use of fluxapyroxad and pyraclostrobin on a maximum of 8,000 acres of coffee to control coffee leaf rust (*Hemileia vastatrix*). Import tolerances in connection with prior registration actions have been established in 40 CFR 180.166 for fluxapyroxad and 40 CFR 180.582 for pyraclostrobin to support this action. The

authorization for this use is effective May 19, 2021 to May 19, 2022.

Michigan

Department of Agriculture and Rural Development

Specific exemption: EPA authorized the use of acifluorfen on a maximum of 48,000 acres of sugar beets for postemergence control of invasive *Amaranthus* (pigweed) spp., glyphosate-resistant-waterhemp (*Amaranthus tuberculatus*), and Palmer amaranth (*Amaranthus palmeri*).

Time-limited tolerances in connection with this action will be established in 40 CFR 180.383(b).

The authorization for this use is effective June 1, 2021 to July 31, 2021.

Minnesota

Department of Agriculture

Specific exemption: EPA authorized the use of acifluorfen on a maximum of 96,000 acres of sugar beets for postemergence control of glyphosate-resistant waterhemp (*Amaranthus tuberculatus*). Time-limited tolerances in connection with this action will be established in 40 CFR 180.383(b). Effective June 1, 2021 to July 31, 2021.

Public Health Exemption: EPA authorized the use of Benzene, 1-(1,1-dimethylethyl)-4-ethenyl-, polymer with ethenylbenzene and 2-methyl-1,3-butadiene, sulfonated, CAS 1637665-77-0 (referred to as BiaXam polymer), for supplemental residual control of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) on hard, nonporous, nonfood-contact surfaces in Delta Air Lines airplanes and airport facilities in Minnesota. Because the request proposed use of a new chemical (an active ingredient not contained in any currently registered pesticide), in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the *Federal Register* on February 9, 2021 (86 FR 8784) (FRL-10019-60) with the public comment period closing on February 24, 2021. The authorization for this use is effective April 21, 2021 to April 21, 2022.

Missouri

Department of Agriculture

Specific exemption: EPA authorized the use of fluridone on a maximum of 4,000 acres of peanut to control herbicide-resistant Palmer amaranth (*Amaranthus palmeri*). A time-limited tolerance in connection with this action will be established in 40 CFR 180.420(b). The authorization for this use is effective May 7, 2021 to August 1, 2021.

Nebraska

Department of Agriculture

Specific exemption: EPA authorized the use of acifluorfen on a maximum of 11,000 acres of sugar beets for postemergence control of glyphosate-resistant Palmer amaranth pigweed (*Amaranthus palmeri*). Time-limited tolerances in connection with this action will be established in 40 CFR 180.383(b). The authorization for this use is effective June 1, 2021 to July 31, 2021.

New York

Department of Environmental Conservation

Public Health Exemptions: EPA authorized the use of peroxyacetic acid and hydrogen peroxide to treat regulated medical waste potentially contaminated with the causal agent of COVID-19, the Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2). The authorization for this use is effective June 17, 2021 to June 17, 2022.

North Dakota

Department of Agriculture

Specific exemption: EPA authorized the use of acifluorfen on a maximum of 34,000 acres of sugar beets for postemergence control of glyphosate resistant waterhemp (*Amaranthus tuberculatus*). Time-limited tolerances in connection with this action will be established in 40 CFR 180.383(b). The authorization for this use is effective June 1, 2021 to July 31, 2021.

Utah

Department of Agriculture and Food

Public Health Exemptions: EPA authorized the use of Benzene, 1-(1,1-dimethylethyl)-4-ethenyl-, polymer with ethenylbenzene and 2-methyl-1,3-butadiene, sulfonated, CAS 1637665-

77-0 (referred to as BiaXam polymer), for supplemental residual control of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) on hard, nonporous, nonfood-contact surfaces in Delta Air Lines airplanes and airport facilities in Utah. Because the request proposed use of a new chemical (an active ingredient not contained in any currently registered pesticide), in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the *Federal Register* on February 9, 2021 (86 FR 8784) (FRL-10019-60) with the public comment period closing on February 24, 2021. The authorization for this use is effective April 21, 2021 to April 21, 2022.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 29, 2021.

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